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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Case No. 07cr3238-WQH
)	
Plaintiff,)	PRELIMINARY ORDER
v.)	OF CRIMINAL FORFEITURE
)	
JUAN HERNAN LEMUS,)	
)	
Defendant.)	

WHEREAS, in the Indictment in the above-captioned case, the United States sought forfeiture of all right, title and interest in specific property of the above-named Defendant pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c) as a firearm and ammunition involved in a knowing violation of Title 18, United States Code, Section 922(g)(1) and 924(a)(2), as charged in the Indictment; and

WHEREAS, on or about June 2, 2008, the above-named Defendant, Juan Hernan Lemus ("Defendant"), pled guilty to Count 1 of the Indictment, which plea included consent to the criminal forfeiture allegation pursuant to Title 18 as set forth in the Indictment; and

WHEREAS, by virtue of the facts set forth in the plea agreement, the United States has established the requisite nexus between the forfeited property and the offense; and

WHEREAS, by virtue of said guilty plea, the United States is now entitled to possession of said property, pursuant to 18 U.S.C. § 924 and Rule 32.2(b) of the Federal Rules of Criminal Procedure; and

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1 WHEREAS, pursuant to Rule 32.2(b), the United States having requested the authority to
2 take custody of the following property which was found forfeitable by the Court, namely:

3 **One loaded Sturm & Ruger pistol, Model P95DC, 9mm caliber, serial number**
4 **312-62717 with nine (9) rounds of ammunition.; and**

5 WHEREAS, the United States, having submitted the Order herein to the Defendant through
6 his attorney of record, to review, and no objections having been received;

7 Accordingly, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

8 1. Based upon the guilty plea of the Defendant, the United States is hereby authorized
9 to take custody and control of the following asset, and all right, title and interest of Defendant
10 Lemus in the following property are hereby forfeited to the United States for disposition in
11 accordance with the law, subject to the provisions of 21 U.S.C. § 853(n):

12 **One loaded Sturm & Ruger pistol, Model P95DC, 9mm caliber, serial number**
13 **312-62717 with nine (9) rounds of ammunition.**

14 2. The aforementioned forfeited asset is to be held by the Bureau of Alcohol, Tobacco,
15 and Firearms in its secure custody and control.

16 3. Pursuant to Rule 32.2(b) and (c), the United States is hereby authorized to begin
17 proceedings consistent with any statutory requirements pertaining to ancillary hearings and rights
18 of third parties.

19 4. Pursuant to the Attorney General's authority under Section 853(n)(1) of Title 21,
20 United States Code, Rule 32.2(b)(3), Fed. R. Crim. P., and Rule G(4) of the Supplemental Rules
21 for Admiralty or Maritime Claims and Asset Forfeiture Actions, the United States forthwith shall
22 publish for thirty (30) consecutive days on the Government's forfeiture website,
23 www.forfeiture.gov, notice of this Order, notice of the Marshals Service's intent to dispose of the
24 property in such manner as the Attorney General may direct, and notice that any person, other than
25 the Defendant, having or claiming a legal interest in the above-listed forfeited property must file
26 a petition with the Court within thirty (30) days of the final publication of notice or of receipt of
27 actual notice, whichever is earlier.

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1 5. This notice shall state that the petition shall be for a hearing to adjudicate the
2 validity of the petitioner's alleged interest in the property, shall be signed by the petitioner under
3 penalty of perjury, and shall set forth the nature and extent of the petitioner's right, title or interest
4 in the forfeited property and any additional facts supporting the petitioner's claim and the relief
5 sought.

6 6. The United States may also, to the extent practicable, provide direct written notice
7 to any person known to have alleged an interest in the properties that are the subject of the
8 Preliminary Order of Criminal Forfeiture.

9 7. Upon adjudication of all third-party interests, this Court will enter an Amended
10 Order of Forfeiture pursuant to 21 U.S.C. § 853(n), in which all interests will be addressed.

11
12 DATED:

9/4/08


WILLIAM Q. HAYES, Judge
United States District Court